
From: "Dr. Amy" <dramy5@aol.com>
Date: December 17, 2012, 11:36:21 PM AST
To: tos@bluehost.com
Subject: Re: About your skepticalob.com bluehost account

Dear Legal Department:

Thank you for your inquiry regarding the report of an alleged violation of your Terms of Service. I take my responsibilities to comply with your TOS quite seriously, and would therefore appreciate your guidance regarding this report.

Ms. Crosley-Corcoran alleges that my publication of her photograph – which depicts Ms. Gina Crosley-Corcoran “giving the finger” to me –illegally infringes upon Ms. Crosley-Corcoran’s copyrighted image. Ms. Crosley-Corcoran gave express permission to me to use the image in the text that accompanied the picture. In a paragraph that summed up her expletive laden blog post about me, Ms. Crosley-Corcoran stated:

I don't want to leave you without something *you can take back to your blog* and obsess over, *so here's a picture of me*, sitting at my dining room table, sucking on a cough drop that I took away from the baby. <http://thefeministbreeder.com/this-ones-for-you-dr-amy/> (Emphasis added.)

Consistent with Ms. Crosley-Corcoran’s suggestion, I “[look] back to [her] blog” the “picture of [Ms. Crosley-Corcoran],” just as Ms. Crosley-Corcoran said I should do.

It is my understanding that even if Ms. Crosley-Corcoran had been silent about the subsequent use of the photo, my reposting of it would clearly fall within the Fair Use exception to the copyright laws, in keeping with the judicial opinion that the critical factor in Fair Use analysis is whether the new work is “transformative”; that is, whether the secondary use “adds something new, with a further purpose or different character.” I used Ms. Crosley-Corcoran’s image of her obscene gesture to criticize her reaction to anyone who disagrees with her in print.

That said, I would appreciate your guidance so that I may remain in compliance with the TOS.

Sincerely,

Amy Tuteur, MD

-----Original Message-----

From: tos <tos@bluehost.com>
To: DrAmy5 <DrAmy5@aol.com>
Sent: Mon, Dec 17, 2012 8:36 pm
Subject: About your skepticalob.com bluehost account

Please be advised that we have received notice (copy below) of alleged infringement on your website. Please remove or disable access to the alleged infringing material within 48 hours, and provide written notice to us to that effect when completed.

Failure to eliminate or disable access to such alleged infringing material

within such time period could result in suspension or termination of your website.

Should you have further questions, please contact us.

Thank You, Legal Team

NOTICE TO COMPLAINING PARTY: Please review the above web site after the expiration of the 48 hour notice period, and notify us in the event you determine that the alleged infringing material has not been eliminated or that access to it has not been disabled, and we will take further action.

REPORT:

To Whom It May Concern,

I am writing to you to avail myself of my rights under the Digital Millennium Copyright Act (DMCA). This letter is a Notice of Infringement as authorized in § 512(c) of the U.S. Copyright Law. I wish to report an instance of what I feel in good faith is an instance of Copyright Infringement. The infringing material appears on the Service for which you are the designated agent.

You are registered with the U.S. Copyright Office as the Designated Service Provider Agent to receive notifications of alleged Copyright infringement with respect to users of the Service for which you are the Designated Agent.

1. The material which I contend belongs to me, and appears illegally on the Service is the following:

"Photo 10"

2. The material appears at the website address:

<http://www.skepticalob.com/wp-content/uploads/2012/12/Gina.jpg>

3. The material appears on my Web site at this address:

<http://thefeministbreeder.com/this-ones-for-you-dr-amy/photo-10/>

Thank you,

Bluehost Terms of Service Compliance

<http://www.bluehost.com>

For support go to <http://helpdesk.bluehost.com/>

Toll-Free: (888) 401-4678